

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14274, of Peace Baptist Church, pursuant to Sub-section 8207.2 of the Zoning Regulations, for special exceptions under Paragraph 3101.41 and Sub-section 7205.4 to use two floors of the subject premises as a child development center for 128 children, ages two to twelve years, and to allow required parking spaces to be located on the church parking lot (Square 4511, Lot 829) which is other than the lot on which the center is located in an R-4 District at premises 712 - 18th Street, N.E., (Square 4511, Lot 67).

HEARING DATE: April 10, 1985

DECISION DATE: April 10, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The property involved in the subject application includes two separate lots in the same square. One property is located at the southwest corner of the intersection of 18th Street and Gales Place, N.E. The other property is located at the southeast corner of the intersection of 27th Street and Gales Place, N.E. Both properties are zoned R-4.

2. The property at 18th Street and Gales Place is rectangular in shape and has a frontage of 71.75 feet on 18th Street and 134.17 on Gales Place. It has a total land area of 9,626.7 square feet. It is improved with a brick church building occupied by the Peace Baptist Church.

3. The property at 17th Street and Gales Place is also rectangular in shape with a frontage of 81.75 feet on 17th Street and 205 feet on Gales Place. It is covered with a gravel and tar surface and is used as a parking lot by the Peace Baptist Church.

4. East, south and west of the subject sites, the area is zoned R-4. It is characterized by residential row structures. Immediately north of the subject sites is an R-5-B District containing the Benning Court Apartments. To the northeast along Benning Road is a C-2-A District characterized by low scale commercial/retail uses.

5. The applicant requests permission to operate a child development center in the Church building and to provide the required parking for the center on the Church parking lot.

6. The applicant currently operates a child development center in the Church. That center has been in existence since 1969. The applicant requires further approval because of the proposal to expand the enrollment and because recent renovations to the Church necessitate obtaining a new certificate of occupancy.

7. The subject center currently enrolls approximately seventy children ages two to twelve. The applicant seeks permission to expand the center to a maximum enrollment of 128, the maximum number of children permitted under the licensing regulations given the amount of Church space devoted to use by the center and the ages of the children to be enrolled. While the applicant seeks permission for the maximum number of children permitted, the applicant actually envisions an enrollment of approximately ninety.

8. The center operates between the hours of 6:30 A.M. and 6:00 P.M. The bulk of the children are brought to the center at 6:30 A.M. by two van-type school buses. Children are dropped-off immediately adjacent to the entrance to the center, which fronts on Gales Place. The remaining children either walk or are dropped off and picked up by parents.

9. The Center employs a total staff of seventeen persons, including six teachers and six teacher's aides. The remaining staff consists of bus drivers, custodians, and kitchen employees.

10. The applicant is seeking a special exception under Paragraph 3101.41 to operate a child development center in a residential district. That paragraph requires that:

- A. The center shall be capable of meeting all applicable code and licensing requirements.
- B. The center shall be so located and designed as to create no objectionable traffic condition and no unsafe condition for picking-up and dropping-off children.
- C. The center shall provide sufficient off-street parking spaces to meet the reasonable needs of teachers, other employees and visitors.
- D. The center, including any outdoor play space provided, is so located and designed that there will be no objectionable impacts on adjacent or nearby properties due to noise, activity, visual or other objectionable conditions. The Board may require such special treatment in the way of design, screening of buildings, planting and parking areas, signs or other requirements as it

shall deem necessary to protect adjacent and nearby properties.

- E. Any off-site play area shall be located so as not to result in endangerment to the individuals in attendance at the center in traveling between the play area and the center itself.
- F. The Board may approve more than one child development center in a square or within 1,000 feet of another child development center only when the Board finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise operations or other similar factors.
- G. Before taking final action on an application, the Board shall submit the application to the Department of Consumer and Regulatory Affairs, the Department of Public Works and the Office of Planning for review and written reports. The referral to the Department of Consumer and Regulatory Affairs shall request advise as to whether the proposed center can meet all licensing requirements set forth in the applicable laws of the District of Columbia.

11. The operator of the child development center testified that the center is capable of meeting all applicable codes and licensing requirements. The maximum enrollment of 128 children is based on the square footage devoted to the center.

12. The Department of Consumer and Regulatory Affairs, by memorandum dated February 22, 1985, advised that the facility can meet all licensing requirements set forth in the Child Development Facilities Regulations 74-34 and D.C. Law 2-98.

13. Vehicles dropping off or picking up children do so by pulling up immediately in front of the entrance to the center which is located on Gales Place. This drop-off and pick-up point eliminates the need for children arriving by bus or private automobile to cross Gales Place in order to access the center. Because the bulk of the students arrive and depart by bus, traffic congestion on Gales Place is minimized.

14. The Zoning Regulations require one parking space for each four teachers and other employees. With a total staff of seventeen, the applicant is required to provide four on-site parking spaces. Only three employees drive to work, thus assuring a minimum of one additional space for visitors and miscellaneous use. Four parking spaces are to

be provided in the large Church parking lot which was virtually empty when both Department of Public Works and Office of Planning staff separately visited the site. Additional parking spaces are thus available in the event of increased staff demand.

15. The other activities which occur at the Church generally occur at hours when the center is not in operation. The center's staff arrives before and departs after the few other daytime activities, resulting in no adverse impact on traffic.

16. Peace Baptist Church is surrounded on all four sides by residential development. Except for the residential structures to the west of the Church, the adjacent residential development is separated from the Church by the width of a street to the north and east and the width of an alley to the south, plus either a front or rear yard setback. This setback provides a sufficient buffer between the church and nearby residential properties. Further, noise and outdoor activity on the site should be minimized by the off-site location of the Center's recreation space.

17. During recreation periods, the children are taken either to a structure across 18th Street, which is owned by the Church and outfitted with recreation equipment, to the Rosedale Recreation Center, which is approximately one block south of the Church, or to the playgrounds of Henry T. Blow Elementary School, which is approximately one block to the east. Play periods are staggered and children are closely supervised while walking to the selected play area.

18. There are no other child development centers within 1,000 feet of the subject site.

19. The application also requests a special exception under Sub-section 7205.4 to allow the required parking spaces to be located on a different lot than the one on which the child development center is located. The Regulations require that:

- A. It is not practical to locate the parking spaces in accordance with the normal requirements because of:
 - 1. Unusual topography, grades, shape, size, or dimensions of the lot;
 - 2. The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets;

3. Traffic hazards caused by unusual street grades; or
 4. The location of required parking spaces elsewhere on the same lot or on another lot would result in more efficient use of land, better design or landscaping, safer ingress or egress, and less adverse impact on neighboring properties;
- B. When the accessory parking spaces are to be located elsewhere than on the lot upon which the building or structure they are intended to serve is located, parking on adjacent lots or lots separated only by an alley from the lot upon which the building or structure is located, shall be preferred;
 - C. The parking spaces are so located as to furnish reasonable and convenient parking facilities for the occupants or guests of the building or structure which they are designed to serve; and
 - D. The Board may impose conditions on any accessory or non-accessory parking spaces as to screening, coping, set backs, fences, the location of entrances and exists, or any other requirement it shall deem necessary to protect adjacent or nearby property. It may also impose such other conditions as it shall deem necessary to assure the continued provision and maintenance of such spaces.
20. There are no parking spaces on the lot on which the Church is located because of the extent to which the Church structure occupies the greater portion of the lot.
21. Peace Baptist Church owns the parking lot where the four spaces required by the Zoning Regulations are to be provided.
22. The subject lot is located in the same square as the lot containing the Church and is approximately 100 feet from the church lot line.
23. A sign affixed to the wall of the Church adjacent to the entrance to the child development center directs and alerts prospective parkers to the presence and location of the parking lot.
24. The subject parking lot currently violates the provisions of the Zoning Regulations concerning paving, striping and landscaping of parking lots. Also, the Church lacks a certificate of occupancy for the subject lot, a deficiency which the Church is currently seeking to correct.

25. The Office of Planning, by memorandum dated April 3, 1985, and by testimony at the public hearing, recommended that the application be approved with conditions. The Office of Planning determined that the proposed child development center satisfies the requisite criteria of Paragraph 3101.41 including the provision of adequate parking at an off-site location. The off-site location is necessitated by the absence of on-site parking which is attributable to the small size of the lot upon which the Church is located and the extensive lot coverage of the Church structure. In addition, the Office of Planning believed that the imposition of certain conditions would limit the potential impacts of the center upon nearby and adjacent properties and render it possible for the requested relief to be granted as in harmony with the general purpose and in tent of the Zoning Regulations. The Office of Planning recommended approval of this application subject to the following conditions:

- A. The number of children enrolled at the Center shall not exceed 128.
- B. The Center's hours of operation shall be from 6:30 A.M. to 6:00 P.M.
- C. A minimum of four parking spaces shall be provided in the Church parking lot (Square 4511, Lot 829) and shall be marked as available for exclusive use by the subject child development center.
- D. The Church lot shall be brought into conformance with applicable parking provisions of the Zoning Regulations including paving, striping and landscaping.

The Board generally concurs with the report of the Office of Planning. The Board will require sufficient parking spaces to serve the number of staff persons that will be required for the full proposed enrollment.

26. The Department of Public Works (DPW), by memorandum dated March 29, 1985, reported that the center is located in the Peace Baptist Church, at 712 18th Street, N.E. 18th Street is a local street with a paved width of thirty-two feet. Residential permit parking is permitted on both sides. Gales Place is a local street with a paved width of twenty-four feet. Unrestricted parking is permitted on Gales Place. 17th Street is a minor arterial street with a paved width of thirty-six feet and an average daily traffic volume of 11,300 vehicles near the site. The site is served by five Metrobus routes, the X1, X2, X3, X4, and X5, which run along Benning Road. The DPW noted that the applicant proposes to set aside four spaces in the Church parking lot for use by center staff. These spaces will be striped and

clearly marked for child development center parking. Should the center's staff expand, the number of spaces allocated to the center can be increased. Since church activities generally occur on Sundays and in the evenings, church-related parking demands will rarely conflict with the staff parking needs. In the DPW's estimation, this proposal will not have a significant impact on the surrounding street system. Therefore, the DPW had no objection to this application, provided that the parking lot conforms to all applicable provisions of the current D.C. Zoning Regulations. The Board concurs.

27. Advisory Neighborhood Commission 6A, by report dated April 1, 1985, advised the Board that it had held a special public meeting on March 28, 1985, for which proper notice had been given and at which time the ANC considered the application. The ANC advised that:

- A. The existing day care center is serving the community.
- B. Most of the children arrive by bus.
- C. The required parking would be on an existing parking lot.
- D. The existing parking lot has excessive capacity during the hours of operation of the day care facility.

The ANC recommended that the Board approve the application.

28. There were two letters in the record from owners of nearby property opposed to the application on the grounds that no additional parking spaces should be provided in the area, and that the Church creates parking problems when it has functions at present. One letter suggested that Gales Place be made a one-way street.

29. The Board finds that no additional parking spaces are to be created for the child development center. The center will use the existing Church parking lot. The Board notes the report of the Department of Public Works, and finds that the increase in enrollment of the center will not cause traffic congestion that coincides with other Church activities. The Board finds that the issue of the direction of traffic flow on Gales Place is within the jurisdiction of the Department of Public Works, not the Board.

30. There was no opposition to the application at the public hearing.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking two special exceptions. In order to be granted those exceptions, the applicant must demonstrate that it has complied with the requirements of Paragraph 3101.41 and Sub-section 7205.4 and 8207,2 of the Zoning Regulations. The Board concludes that the applicant has so complied.

As to the special exception for the center itself, the center is capable of meeting all applicable code and licensing requirements. The center has been located, designed and operated so as to create no objectionable traffic conditions and no unsafe condition for picking-up and dropping-off children. The increase in enrollment proposed will not change these conditions. Sufficient parking spaces can be located in the Church's parking lot. There will be no objectionable impacts on adjacent or nearby properties due to noise, activities or other conditions. There are no other child development centers within 1,000 feet of the subject center.

As to the special exception regarding the location of the parking spaces, the Board concludes that it is not possible to locate the spaces on the same lot as the center, because of the size of the existing Church building. The parking spaces are located in the same square as the center, on a lot owned by the Church approximately 100 feet from the building. That lot is not currently in compliance with the requirements of the Zoning Regulations. The Board will require as a condition to the approval of this application that the lot be brought into compliance.

The Board concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled. The Board further concludes that the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to affect adversely the use of neighboring property in accordance with said regulations and maps. It is therefore ordered that the application is granted, subject to the following conditions:


1. Operation of the facility shall be limited to the Peace Baptist Church.
2. The number of students shall not exceed 128. The maximum number of staff shall be thirty-two.
3. The hours of operation shall not exceed from 6:30 A.M. to 6:00 P.M. Monday through Friday.

4. Eight parking spaces shall be provided on the church parking lot located at 17th Street and Gales Place for the exclusive use of the child development center during its hours of operation.
5. No certificate of occupancy shall be issued until the subject parking lot has been brought into compliance with all applicable provisions of the Zoning Regulations.

VOTE: 4-0 (Lindsley Williams, Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 24 JUL 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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